

Effective 5/12/2015

57-8a-218 Equal treatment by rules required -- Limits on association rules and design criteria.

- (1)
 - (a) Except as provided in Subsection (1)(b), a rule shall treat similarly situated lot owners similarly.
 - (b) Notwithstanding Subsection (1)(a), a rule may:
 - (i) vary according to the level and type of service that the association provides to lot owners; and
 - (ii) differ between residential and nonresidential uses.
- (2)
 - (a) If a lot owner owns a rental lot and is in compliance with the association's governing documents and any rule that the association adopts under Subsection (4), a rule may not treat the lot owner differently because the lot owner owns a rental lot.
 - (b) Notwithstanding Subsection (2)(a), a rule may:
 - (i) limit or prohibit a rental lot owner from using the common areas for purposes other than attending an association meeting or managing the rental lot;
 - (ii) if the rental lot owner retains the right to use the association's common areas, even occasionally, charge a rental lot owner a fee to use the common areas; or
 - (iii) include a provision in the association's governing documents that:
 - (A) requires each tenant of a rental lot to abide by the terms of the governing documents; and
 - (B) holds the tenant and the rental lot owner jointly and severally liable for a violation of a provision of the governing documents.
- (3)
 - (a) A rule criterion may not abridge the rights of a lot owner to display religious and holiday signs, symbols, and decorations inside a dwelling on a lot.
 - (b) Notwithstanding Subsection (3)(a), the association may adopt time, place, and manner restrictions with respect to displays visible from outside the dwelling or lot.
- (4)
 - (a) A rule may not regulate the content of political signs.
 - (b) Notwithstanding Subsection (4)(a):
 - (i) a rule may regulate the time, place, and manner of posting a political sign; and
 - (ii) an association design provision may establish design criteria for political signs.
- (5)
 - (a) A rule may not interfere with the freedom of a lot owner to determine the composition of the lot owner's household.
 - (b) Notwithstanding Subsection (5)(a), an association may:
 - (i) require that all occupants of a dwelling be members of a single housekeeping unit; or
 - (ii) limit the total number of occupants permitted in each residential dwelling on the basis of the residential dwelling's:
 - (A) size and facilities; and
 - (B) fair use of the common areas.
- (6)
 - (a) A rule may not interfere with an activity of a lot owner within the confines of a dwelling or lot, to the extent that the activity is in compliance with local laws and ordinances.
 - (b) Notwithstanding Subsection (6)(a), a rule may prohibit an activity within a dwelling on an owner's lot if the activity:
 - (i) is not normally associated with a project restricted to residential use; or

- (ii)
 - (A) creates monetary costs for the association or other lot owners;
 - (B) creates a danger to the health or safety of occupants of other lots;
 - (C) generates excessive noise or traffic;
 - (D) creates unsightly conditions visible from outside the dwelling;
 - (E) creates an unreasonable source of annoyance to persons outside the lot; or
 - (F) if there are attached dwellings, creates the potential for smoke to enter another lot owner's dwelling, the common areas, or limited common areas.
 - (c) If permitted by law, an association may adopt rules described in Subsection (6)(b) that affect the use of or behavior inside the dwelling.
- (7)
- (a) A rule may not, to the detriment of a lot owner and over the lot owner's written objection to the board, alter the allocation of financial burdens among the various lots.
 - (b) Notwithstanding Subsection (7)(a), an association may:
 - (i) change the common areas available to a lot owner;
 - (ii) adopt generally applicable rules for the use of common areas; or
 - (iii) deny use privileges to a lot owner who:
 - (A) is delinquent in paying assessments;
 - (B) abuses the common areas; or
 - (C) violates the governing documents.
 - (c) This Subsection (7) does not permit a rule that:
 - (i) alters the method of levying assessments; or
 - (ii) increases the amount of assessments as provided in the declaration.
- (8)
- (a) Subject to Subsection (8)(b), a rule may not:
 - (i) prohibit the transfer of a lot; or
 - (ii) require the consent of the association or board to transfer a lot.
 - (b) Unless contrary to a declaration, a rule may require a minimum lease term.
- (9)
- (a) A rule may not require a lot owner to dispose of personal property that was in or on a lot before the adoption of the rule or design criteria if the personal property was in compliance with all rules and other governing documents previously in force.
 - (b) The exemption in Subsection (9)(a):
 - (i) applies during the period of the lot owner's ownership of the lot; and
 - (ii) does not apply to a subsequent lot owner who takes title to the lot after adoption of the rule described in Subsection (9)(a).
- (10) A rule or action by the association or action by the board may not unreasonably impede a declarant's ability to satisfy existing development financing for community improvements and right to develop:
- (a) the project; or
 - (b) other properties in the vicinity of the project.
- (11) A rule or association or board action may not interfere with:
- (a) the use or operation of an amenity that the association does not own or control; or
 - (b) the exercise of a right associated with an easement.
- (12) A rule may not divest a lot owner of the right to proceed in accordance with a completed application for design review, or to proceed in accordance with another approval process, under the terms of the governing documents in existence at the time the completed application was submitted by the owner for review.

- (13) Unless otherwise provided in the declaration, an association may by rule:
 - (a) regulate the use, maintenance, repair, replacement, and modification of common areas;
 - (b) impose and receive any payment, fee, or charge for:
 - (i) the use, rental, or operation of the common areas, except limited common areas; and
 - (ii) a service provided to a lot owner;
 - (c) impose a charge for a late payment of an assessment; or
 - (d) provide for the indemnification of the association's officers and board consistent with Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.
- (14) A rule shall be reasonable.
- (15) A declaration, or an amendment to a declaration, may vary any of the requirements of Subsections (1) through (13), except Subsection (1)(b)(ii).
- (16) A rule may not be inconsistent with a provision of the association's declaration, bylaws, or articles of incorporation.
- (17) This section applies to an association regardless of when the association is created.

Amended by Chapter 22, 2015 General Session